



House of Representatives
Study Committee on County Governance

Final Report

Chairwoman Meagan Hanson
Representative, 80th District

The Honorable Demetrius Douglas
Representative, 78th District

The Honorable Barry Fleming
Representative, 121st District

The Honorable Ed Rynders
Representative, 152nd District

The Honorable Jan Tankersley
Representative, 160th District

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Prepared by the House Budget and Research Office

Introduction

The Georgia House of Representatives created the House Study Committee on County Governance (hereinafter “the committee”) during the 2018 General Session through the passage of House Resolution 1429. The committee was established to study the various models of county governance, as well as different issues facing county governments across the state, such as utilities and procurement.

During the first committee meeting, members heard from a range of government officials who discussed the various types of county governments in the state and the unique issues that face each of them. The committee then focused on county water utility management problems and economic development models in the second and third meetings, respectively.

Representative Meagan Hanson (80th) chaired the committee, which also included four additional House members: Representative Demetrius Douglas (78th), Representative Barry Fleming (121st), Representative Ed Rynders (152nd), and Representative Jan Tankersley (160th). The House Budget and Research Office assigned Mr. Blake Doss to assist the committee, while the Office of Legislative Counsel assigned Mr. Paul Higbee to assist the committee.

The committee held three public meetings, two at the Capitol complex in Atlanta and one at Brookhaven City Hall, to hear expert testimony on several issues involving county governments. The following speakers testified before the committee:

August 20, 2018 – Coverdell Legislative Office Building

Michele NeSmith (Research and Policy Development Director, Association County Commissioners of Georgia); Jeff Turner (Multi-Member Commission Chairman, Clayton County); Teresa Tomlinson (Consolidated Government Mayor, Columbus-Muscogee County); Steve Taylor (Sole Commissioner, Bartow County); Kevin Little (Full-Time Commissioner, Walton County); and Jeff Rader (Commissioner, DeKalb County).

September 27, 2018 – Georgia State Capitol

Mike Thomas (Member Relations and Leadership Development Director, Georgia Association of Water Professionals); Milbree Lankford (General Counsel, Douglasville-Douglas County Water and Sewer Authority); Tyler Richards (Assistant Director, Gwinnett County Water Resources); and Nancy Jester (District 1 Commissioner, DeKalb County Commission).

October 9, 2018 – Brookhaven City Hall

Jeffrey Parker (General Manager/CEO, Metropolitan Atlanta Rapid Transit Authority); Matt Schlachter (Deputy County Administrator, Columbia County); Ted Burgess (Purchasing Director, Fayette County); Al Hodge (President/CEO, Rome Floyd Chamber of Commerce).

Background

As a home-rule state with 159 counties, each of Georgia's county governments is structured differently and faces unique challenges due to location, economy, and population among other issues; however, some general policies and practices typically apply to all county governments. In this respect, some policy decisions should work better in all counties, such as creating a water authority structure that is as removed as possible from the political process.

Following testimony from multiple experts on various aspects of county governance, the committee presents the following findings and recommendations to the Georgia House of Representatives.

Committee Findings

Government Types

Georgia has more counties than any state other than Texas. According to the testimony of Michele NeSmith of the Association County Commissioners of Georgia, there are five primary forms of county governments. These forms include governments led by a traditional commission, a sole-commissioner, a county manager, a county administrator, and an elected chief executive officer. Within these primary forms are variations of the basic template, as very few governments are managed exactly the same.

A traditional county commission typically has between three and seven commissioners, with whom lies primary policy-making and executive functions. It was a very popular form of government during the 20th century, but only 26 counties utilize this type of government today. These commissions may also elect a full-time commissioner to help run day-to-day functions of the county.

Georgia has eight counties that have a sole commissioner, a governance structure that appears to be unique to Georgia. A sole commissioner's power is similar to a traditional commission; however, the power rests with one only individual. Of the eight counties, four employ county managers to help with executive and administrative duties.

The Chief Executive Officer (CEO) is rare in Georgia, with only DeKalb County utilizing this form of county governance structure. In DeKalb, the power is allocated between an executive and legislative branch, with the CEO wielding much of the authority over the five elected members of the county commission. Typically, the county commission works on policy-making,

while the CEO works on executive functions, such as appointments, and has veto powers over some commission decisions, including line items in the county budget.

The final two government structures, which both typically have a five-member board of commissioners, are generally run by a county administrator or county manager. Although these two terms are typically used interchangeably, the ACCG representative stated they have different roles and authority. Under an administrator form, the commission typically has all policy and executive responsibility, with the administrator serving in an advisory and administrative role. The administrator generally has limited authority over department heads and the budget. On the other hand, a manager is given more authority to run day-to-day operations, including authority over department heads and budget preparations. Still, the commission will generally retain policy-making and executive powers.

County Government Structures in Georgia

<i>County Structure Types</i>	<i>Description</i>	<i>Number of Counties</i>
Traditional Commission	A typical commission has between three and seven commissioners. All primary policy and executive functions lie with the commission.	26
Sole-Commissioner	A sole commissioner has the same powers as a traditional commission, but it all lies with one person.	8
Executive	Power is allocated between the policy-making board of commissioners and the executive functioning CEO.	1
County Manager	The commission hires a county manager to run day-to-day activities and is given authority over department heads and budget preparations.	62
County Administrator	A commission hires the county administrator to serve in an advisory and administrative role. The administrator is typically given limited authority over department heads and the budget.	62

The committee requested information from a representative of each type of government about their best practices, in addition to any shortcomings for each structure.

Clayton County Board of Commissioners Chairman Jeff Turner testified as the full-time chairman of a traditional commission. He called for statutory rights for full-time chairmen that clearly defines a chain of command so that employees understand who they are supposed to report to and what the expectations are. Without a clear chain of command, it forces employees to choose sides and leads to department heads “commissioner shopping,” meaning they will try to keep at least three of the five commissioners on their side, Turner explained. He said statutory rights are also needed because Clayton County holds a county-wide election for his position, leading constituents to come to him for answers and accountability, even though he has little power to make changes or deal with department heads.

Steve Taylor, Bartow County’s sole commissioner, also testified before the committee. Although Taylor said there was an advantage to having a sole commissioner for efficiency and economic development reasons, he acknowledged that it could be a dangerous form of government if the commissioner was corrupt. He also said that the sole commissioner form of government is very efficient for rural Georgia, but probably would not work in urban areas. When the committee asked about the succession process for a sole commissioner in the case of death or resignation, Taylor said that the probate court judge can either assume the position while maintaining his/her judgeship or appoint someone to run the county until the special election. He added that the process is antiquated and the governor or legislature should probably be given the power to appoint a replacement.

Commissioner Jeff Rader of DeKalb County also spoke to the committee about the county’s unique CEO position. He testified the CEO can essentially intercede in any decision-making by the commission, adding that once most appointees or employees are approved, they answer only to the CEO. The only position the commission has any influence over is the executive assistant, which can act as the county manager. The CEO nominates a person for the executive assistant position and the commission votes to approve the nomination. It is also the only position the commission may remove a person from by vote. Such limited authority of the commission undermines any political balance between the CEO and commission in this governance structure.

Water Utilities

Following several public consumer and management complaints about DeKalb County’s Department of Watershed Management, in addition to leaks and water main breaks in other metro-Atlanta communities, the committee heard from several water and county professionals about best practices employed by counties across the state.

DeKalb County Commissioner Nancy Jester spoke to the number of issues facing DeKalb’s water utility. She noted that there have been seven directors since 2011, which makes it hard to

have stability and good planning within the department. Additionally, she testified that several of the directors have not been engineers or water professionals, which is critical to compliance with the regulations at the state and federal levels. Other issues include a water billing crisis, which has affected thousands of DeKalb County residents over a number of years. Although some issues have been resolved, Jester shared as one example that she has a constituent who had not received a water bill in 18 years. Others, according to several newspaper articles and Jester's presentation have received extremely high, unwarranted water bills, reaching thousands of dollars.

Mike Thomas of the Georgia Association of Water Professionals (GAWP) spoke about several issues facing water utilities in the state, including political interference, water rates, and maintenance/upgrades. He said political interference affects several functions of water utilities, particularly by using water revenue for city operations typically funded by taxpayer dollars. Moreover, political influence can lead to water rates that do not reflect the "true" cost of water, which would include factors such as maintenance and upgrades. Although utilities can work well if elected officials only set policy and then hire knowledgeable professionals to manage the utility, Thomas argued that a state-created, separate water authority is the best model for effective management.

The committee asked Mr. Thomas if a statewide opt-in oversight strategy to fix some of the major problems facing local water utilities would be a good solution to some utilities' difficulties. The strategy described would allow water utilities to opt-in to regulation by an oversight authority in order to receive some type of incentive, such as low-interest loans. If a utility did not opt-in and then several catastrophic events happened within the utility's purview, then an agency or appointed committee on the state level would step in and correct the issue.

While he did not think a takeover agent was immediately necessary, Thomas gave feedback on how he thought an opt-in program could be successful. As long as the incentives are good enough, then the opt-in portion can work; however, state oversight led to Flint, Michigan's water problems, so whoever steps in would have to have the knowledge and capability to make proper decisions. He advocated for an interim step before the takeover portion, saying a peer review or advisory panel could offer technical assistance or recommendations to correct any major issues.

Transit, Procurement, and Contracting

The committee also reviewed best practices that county governments follow while interacting the Metropolitan Atlanta Rapid Transit Authority (MARTA), in addition to studying best procurement and contracting practices.

Transit

There are a few reasons the Metropolitan Atlanta Rapid Transit Authority (MARTA) interacts with local governments: board appointments, rapid transit assistance agreements, and project implementation.

MARTA serves four jurisdictions: Fulton County, DeKalb County, Clayton County, and the City of Atlanta. The board that oversees MARTA, according to CEO Jeffrey Parker, is largely made up of county government appointees. MARTA also enters into an intergovernmental agreement with the local jurisdictions through its rapid transit assistance agreements, which allows MARTA to provide transit services within the jurisdiction. These agreements typically come with quarterly updates, during which MARTA discusses its priorities and hears from county representatives on county needs and requests.

In terms of expanding MARTA service, each local government has the ability to approve a referendum to allow the voters to decide to fund transit; however, when discussing project implementation, MARTA and county governments must work collaboratively to succeed. For example, MARTA lacks the ability to use eminent domain, therefore it must work with local jurisdictions to expand service.

Procurement and Contracting

The committee found after hearing from Columbia County Deputy Administrator Matt Schlachter and Fayette County Purchasing Director Ted Burgess that many counties across the state have varying practices for contracting and procurement. For instance, in Columbia County, most projects that cost more than \$20,000 must be bid publicly and the commission must approve the contract; however, in Fayette County, a formal bid process typically only takes place if the contract is worth more than \$200,000. Some of Fayette County's best practices for contracting transparency involve advertising business opportunities through vendor list emails, advertisement in the Georgia Procurement Registry, posts to the county website and local newspaper, and discussions with the Greater Georgia Black Chamber of Commerce.

In Columbia County, purchasing cards have a spending limit and are only issued to select county employees. Division directors typically delegate who gets purchasing cards to their department managers. However, accountability is maintained as purchases are audited every week. Each department manager has to approve each purchase and then the director checks it. Schlachter, the deputy administrator, signs off on the final receipt.

Committee Recommendations

Based on the testimony of experts given before the committee, the following recommendations were submitted by both committee members and those who presented to the committee.

Government Styles

- The voters of each county have the right to develop and organize its own form of government, but it is recommended that a balance of power be implemented to ensure one position cannot override necessary innovation and policy decisions.
- The General Assembly should modernize the succession law in regard to sole commissioner vacancies to allow for the governor to appoint a commissioner to run the county until a special election can be held in the next election cycle.

Water Utilities

- Water and wastewater utilities should be shielded from political interference as much as possible, meaning they should operate as a business in order to provide essential services to communities.
 - When and where possible, utilities should be set up or transition to a separate authority, removing them as far as possible from the political process.
- Water and wastewater utility revenues should not be utilized to fund other government activities.
 - Revenues should be dedicated to operation, maintenance, and capital improvements of the utility. Dedication would best be served by the creation of local enterprise funds or separate governance structures for utilities.
- Elected officials or appointed board members should support the full-cost recovery of water and wastewater utility costs, including operation, maintenance, and asset reinvestment.
 - Full-cost recovery will minimize and prevent catastrophic failures and regulatory issues.
- A *Water Consumer Bill of Rights* should be developed to ensure water customers have some protections, and the Georgia Environmental Finance Authority should provide or create an incentive program to urge water utilities to adopt the rights.
 - If counties continue to mismanage their water utilities and fail to rectify major problems, a correction process should be implemented, beginning with a peer-review panel that will recommend necessary changes.
- Training and professional development should be encouraged at all levels of the utility team through the Georgia Association of Water Professionals and Georgia Rural Water Association.
- Utilities are urged to implement a tiered water rate system to encourage water conservation.

Procurement and Contracting

- Multi-year commitments should be allowed where industry practice or other conditions indicate the need.

- Some examples of where this might be necessary are in software support, databases, and other high-tech services. In order to ensure the county is protected, the contract file should require a justification for long-term contracting.
- Design-build contracting for roads and bridges should be allowed.
 - Design-build contracting is allowed for local public works construction, except for roads and bridges. The Department of Transportation sanctions this process in the state's road and bridge projects.
 - Design-build construction would be of value for road construction in instances where it is in the public interest to accelerate project delivery or shorten the project duration. In addition to making important transportation routes available in a shorter time, this would also reduce safety risks associated with maintaining traffic or work zones.
- Uniform definitions should be created for all purchasing terms common to all local jurisdictions, such as "bid" and "proposal," in order to clarify legislative intent and prevent uneven implementation.
- A statewide monetary threshold should be established to signify when local governments must begin a formal bidding process.